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File No. 125952

*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LYNK MEDIA, LLC,

Plaintiff,

v.

MY MODERN METROPOLIS,  
LLC,

Defendant.

Case No:

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

Plaintiff Lyнк Media, LLC (*“Plaintiff”*), by and through its undersigned counsel, for its Complaint against Defendant My Modern Metropolis, LLC (*“Defendant”*) states and alleges as follows:

**INTRODUCTION**

1. This action seeks to recover damages for copyright Infringements under the Copyright Act, 17 U.S.C §501.

2. Plaintiff owns the rights and licenses for various videos which are used in online and print publications.



1 United States Copyright Office (the “USCO”) which cover many of Plaintiff's videos  
2 while many others are the subject of pending copyright applications.

3 13. Plaintiff's videos are original, creative works in which Plaintiff owns  
4 protectable copyright interests.

5 14. On February 16, 2022, Oliya Fedun (“Fedun”) authored a video of a  
6 puppy in a trench on the frontline of the Ukrainian war (“Video”). A screenshot of  
7 the Video is attached hereto collectively as Exhibit 1.

8 15. Fedun later transferred the copyright assignment to Plaintiff by way of  
9 written agreement.

10 16. Plaintiff published the Video by making it available for commercial  
11 licensing.

12 17. In creating the Video, Plaintiff personally selected the subject matter,  
13 timing, lighting, angle, perspective, depth, lens and camera equipment used to  
14 capture the image.

15 18. Plaintiff also traveled to Ukraine and exposed herself to the hazards of  
16 being present on a battlefield.

17 19. On May 4, 2022, the Video was registered by the USCO under  
18 Registration No. PA 2-356-221.

19 20. Plaintiff created Video with the intention of it being used commercially  
20 and for the purpose of display and/or public distribution.

21 **B. Defendant's Infringing Activity**

22 21. Defendant is the registered owner of the Website and is responsible for  
23 its content.

24 22. Defendant is the operator of the Website and is responsible for its  
25 content.

26 23. The Website is a key component of Defendant's popular and lucrative  
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1 commercial enterprise.

2 24. On or about March 2, 2022, Defendant displayed three still frame  
3 images from the Video on the Website as part of an on-line story at URL  
4 <https://mymodernmet.com/rambo-puppy-ukraine-soldiers/> (“Infringement 1-5”). A  
5 copy of a screengrabs of the Website including the still frames from the Video is  
6 attached collectively hereto in Exhibit 2.

7 25. The still frame infringements were stored at URLs:

- 8 • [https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-8.jpeg)  
9 [ukranian-soldiers-8.jpeg](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-8.jpeg)
- 10 • [https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-5.jpeg)  
11 [ukranian-soldiers-5.jpeg](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-5.jpeg)
- 12 • [https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-7.jpeg)  
13 [ukranian-soldiers-7.jpeg](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-7.jpeg)
- 14 • [https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-6.jpeg)  
15 [ukranian-soldiers-6.jpeg](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-6.jpeg)
- 16 • [https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-9.jpeg)  
17 [ukranian-soldiers-9.jpeg](https://mymodernmet.com/wp/wp-content/uploads/2022/03/rambo-puppy-ukranian-soldiers-9.jpeg)

18 26. Upon information and belief, the still frame images from Plaintiff's  
19 Video were copied and displayed by Defendant without license or permission,  
20 thereby infringing on Plaintiff's copyrights in and to the Video (hereinafter all of the  
21 unauthorized uses set forth above are referred to as the “*Infringements*”).

22 27. Plaintiff first observed and actually discovered the Infringements on  
23 March 4, 2022.

24 28. The Infringements each include a URL (“*Uniform Resource Locator*”)

1 for a fixed tangible medium of expression that was sufficiently permanent or stable  
2 to permit it to be communicated for a period of more than a transitory duration and  
3 therefore constitutes a specific Infringements. 17 U.S.C. §106(5).

4 29. The Infringements are exact copies of Plaintiff's original images that  
5 were directly copied and displayed by Defendant on the Website.

6 30. Upon information and belief, Defendant takes an active and pervasive  
7 role in the content posted on its Website, including, but not limited to copying,  
8 posting, selecting, commenting on and/or displaying images including but not  
9 limited to Plaintiff's Video.

10 31. Upon information and belief, Defendant directly contributes to the  
11 content posted on the Website by, *inter alia*, directly employing reporters, authors  
12 and editors as its agents, including but not limited to Sara Barnes who is referred to  
13 by Defendant on the Website as a "Staff Editor"  
14 (<https://mymodernmet.com/author/sarabarnes/>) (the "Employees").

15 32. Upon information and belief, at all material times the Employees were  
16 acting within the course and scope of their employment when they posted the  
17 Infringements.

18 33. Upon information and belief, at all material times the Employees were  
19 acting within the course and scope of their agency when they posted the  
20 Infringements.

21 34. Upon information and belief, the Video were willfully and volitionally  
22 posted to the Website by Defendant.

23 35. Upon information and belief, Defendant is not registered as an internet  
24 service provider with the USCO pursuant to 17 U.S.C. §512.

25 36. Upon information and belief, the Infringements were not posted at the  
26 direction of a "user", as that term is defined in 17 U.S.C. §512(c).  
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1           37. Upon information and belief, Defendant was aware of facts or  
2 circumstances from which the determination regarding the Infringements was  
3 apparent. Defendant cannot claim that it was not aware of the infringing activities,  
4 including the specific Infringements which form the basis of this complaint, since  
5 such a claim would amount to only willful blindness on the part of Defendant.

6           38. Upon information and belief, Defendant engaged in the Infringements  
7 knowingly and in violation of applicable United States copyright laws.

8           39. Upon information and belief, Defendant has the legal right and ability  
9 to control and limit the infringing activities on its Website and exercised and/or had  
10 the right and ability to exercise such right.

11           40. Upon information and belief, Defendant monitors the content on its  
12 Website.

13           41. Upon information and belief, Defendant has received a financial benefit  
14 directly attributable to the Infringements.

15           42. Upon information and belief, the Infringements increased traffic to the  
16 Website and, in turn, caused Defendant to realize an increase its revenues.

17           43. Upon information and belief, a large number of people have viewed the  
18 unlawful copies of the Video on the Website.

19           44. Upon information and belief, Defendant at all times had the ability to  
20 stop the reproduction and display of Plaintiff's copyrighted material.

21           45. Plaintiff created the Photograph with the intention of it being used  
22 commercially and for the purpose of display and/or public distribution.

23           46. Defendant's use of the Video harmed the actual market for the  
24 Photograph.

25           47. Defendant's use of the Video, if widespread, would harm Plaintiff's  
26 potential market for the Photograph.

48. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

## FIRST COUNT

49. Plaintiff repeats and incorporates by reference the allegations contained in the preceding paragraphs, as though set forth in full herein.

50. The Video is an original, creative works in which Plaintiff owns a valid copyright.

51. The Video is properly registered with the USCO and Plaintiff has complied with all statutory formalities under the Copyright Act and under regulations published by the USCO.

52. Plaintiff has not granted Defendant a license or the right to use the Video in any manner, nor has Plaintiff assigned any of its exclusive rights in the copyright to Defendant.

53. Without permission or authorization from Plaintiff and in willful violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and illegally copied, reproduced, distributed, adapted, and/or publicly displayed works copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its copyrights.

54. Defendant's reproduction of the Video and display of elements of the Video constitutes willful copyright Infringements.

55. On information and belief, Defendant willfully infringed upon Plaintiff's Video in violation of Title 17 of the U.S. Code, in that Defendant used, published, communicated, posted, publicized, and otherwise held out to the public for commercial benefit, Plaintiff's original and unique Video without Plaintiff's consent or authority, by using it on the Website.

56. As a result of Defendant's violations of Title 17 of the U.S. Code,

1 Plaintiff is entitled to any an award of actual damages and disgorgement of all of  
2 Defendant's profits attributable to the Infringements as provided by 17 U.S.C. § 504  
3 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for  
4 statutory damages against each Defendant for each of the Infringements pursuant to  
5 17 U.S.C. § 504(c).

6 57. As a result of the Defendant's violations of Title 17 of the U.S. Code,  
7 the court in its discretion may allow the recovery of full costs as well as reasonable  
8 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

9 58. As a result of Defendant's violations of Title 17 of the U.S. Code,  
10 Plaintiff is entitled to injunctive relief to prevent or restrain Infringements of his  
11 copyright pursuant to 17 U.S.C. § 502.

12 **JURY DEMAND**

13 59. Plaintiff hereby demands a trial of this action by jury.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

16 That the Court enters a judgment finding that Defendant has infringed on  
17 Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 *et seq.* [and has  
18 violated the DMCA under 17 U.S.C. §1202(b)] and therefore award damages and  
19 monetary relief as follows:

- 20 a. finding that Defendant infringed Plaintiff's copyright interest in  
21 and to the Photograph by copying and displaying it without a  
22 license or consent;
- 23 b. for an award of actual damages and disgorgement of all of  
24 Defendant's profits attributable to the Infringements as provided  
25 by 17 U.S.C. § 504(b) in an amount to be proven or, in the  
26 alternative, at Plaintiff's election, an award for statutory damages  
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1 against each Defendant for each Infringements pursuant to 17  
2 U.S.C. § 504(c), whichever is larger;

- 3 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant  
4 from any infringing use of any of Plaintiff's works;  
5 d. for costs of litigation and reasonable attorney's fees against  
6 Defendant pursuant to 17 U.S.C. § 505;  
7 e. for pre-judgment interest as permitted by law; and  
8 f. for any other relief the Court deems just and proper.  
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10 DATED: August 10, 2023

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